

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CUMMINS, INC.,

Plaintiff,

10 Civ. 9252 (TPG)

- against -

ORDER

MASSMUTUAL HOLDING LLC,
MASSACHUSETTS MUTUAL LIFE
INSURANCE CO., OPPENHEIMER
ACQUISITION CORP., NEW YORK LIFE
INSURANCE COMPANY, NEW YORK
LIFE INSURANCE AND ANNUITY
CORPORATION, RYE INVESTMENT
MANAGEMENT, RYE SELECT BROAD
MARKET PRIME FUND L.P., RYE
SELECT BROAD MARKET XL FUND L.P.,
RYE SELECT BROAD MARKET
INSURANCE PORTFOLIO, LDC,
TREMONT CAPITAL MANAGEMENT,
INC., TREMONT OPPORTUNITY FUND
III, L.P., TREMONT (BERMUDA) LTD.,
TREMONT GROUP HOLDINGS, INC.,
TERMONT PARTNERS, INC.,

Defendants.

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DATE FILED: 2/9/11

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MASSACHUSETTS MUTUAL LIFE
INSURANCE CO., OPPENHEIMER
ACQUISITION CORP., RYE INVESTMENT
MANAGEMENT, RYE SELECT BROAD

MARKET PRIME FUND L.P., RYE :
SELECT BROAD MARKET XL FUND L.P., :
TREMONT CAPITAL MANAGEMENT, :
INC., TREMONT (BERMUDA) LTD., :
TREMONT GROUP HOLDINGS, INC., :
TERMONT PARTNERS, INC., :
Defendants. :
-----x

The parties have indicated that these matters are related to the consolidated proceedings under docket number 08 Civ. 11117.

Upon review of the complaint, this Court finds that these cases arises out of the same subject matter as the proceedings under 08 Civ. 11117.

By Order dated March 26, 2009, this Court consolidated a number of actions that asserted claims against certain Tremont entities, certain Rye entities, and other defendants, alleging losses ultimately caused by Bernard Madoff. This Court first placed these cases under the master docket, 08 Civ. 11117. The cases were then divided into three groups: (1) cases in which the primary claims are made under the federal securities laws (consolidated for pre-trial proceedings into one "Securities Action" with docket number 08 Civ. 11212), (2) cases in which the claims are based primarily on state law, charging improper investments by partnerships or hedge funds or similar entities (consolidated for pre-trial proceedings into one "State Law Action" with docket number 08 Civ. 11183), and (3) cases in which the claims are based primarily on state law, charging improper investments by insurance companies

(consolidated for pre-trial proceedings into one “Insurance Action” with docket number 09 Civ. 557).

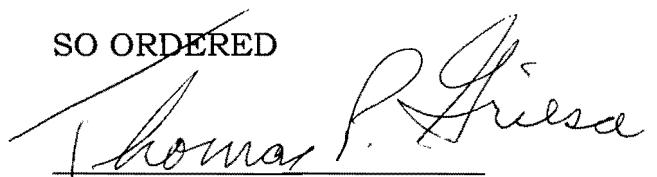
This Order concerns the above-captioned cases, which assert claims against certain Tremont entities, certain Rye entities, and other defendants, based solely on state law, and include allegations that an insurance company improperly invested plaintiff’s life insurance. These cases should be consolidated for pre-trial proceedings with the cases charging improper investments by insurance companies. The Clerk of the Court is therefore directed to consolidate this case with the Insurance Action under docket number 09 Civ. 557, and upon doing so, to close the docket in the above-captioned case.

Any document hereinafter filed in connection with the above-captioned case must be filed under the master docket, 08 Civ. 11117. The parties are directed to read this Court’s Order and Memorandum, both dated March 26, 2009, which can be found under the master docket. These documents prescribe the requirements for future submissions to this Court.

The deadline for defendants to answer, move or otherwise respond to plaintiffs’ complaint is hereby adjourned until thirty days following the filing of an amended consolidated complaint in the Insurance Action.

Dated: New York, New York
February 9, 2011

~~SO ORDERED~~


Thomas P. Griesa
Thomas P. Griesa
U.S.D.J.